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THE CONVICTION OF LENTULUS

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Some time ago Mr. Max Radin undertook to show that Lentulus and his accomplices were condemned and executed on evidence that would carry little or no weight in a modern court.¹ The argument on which he bases this conclusion seems to the writer wholly inadequate, and it may therefore be worth while to inquire somewhat carefully into its validity.

In weighing the evidence the written documents, as being most important, are taken up first, beginning with the letter which Volturcius undertook to deliver to Catiline. This document, in the version of Cicero (which differs little from that of Sallust), runs as follows:

Quis sim, scies ex eo quem ad te misi. Cura ut vir sis, et cogita quem in locum sis progressus; vide ecquid tibi iam sit necesse, et cura ut omnium tibi auxilia adiungas, etiam infimorum.

To this bit of evidence it is objected (1) that the wording is vague, (2) that Catiline had probably not yet been formally declared *hostis rei publicae*, (3) that a political lieutenant, writing to his chief, might very properly urge him to accept the aid even of slaves. Consequently, Mr. Radin says, even though it looks a little suspicious that Lentulus failed to sign his name, there was really nothing in the letter on which to base a charge of treason. In answer to these objections it may be said that there is every reason for supposing that Catiline had already been declared *hostis rei publicae* at the time when this letter was despatched (December 2). Sallust (chap. 36) states that, after Catiline left Rome (November 8), he stopped a few days near Arretium, and then joined forces with Manlius; and that, on receipt of this news, the senate outlawed the two, and put Antonius in the field with an army to operate against them. This seems to imply clearly that the decree was passed against Catiline some time in

¹ *Latin Leaflet*, Vol. IV, No. 100 (May 16, 1904).

November. It is true that Sallust is often untrustworthy in matters of chronology, but in this case we may appeal to Cicero himself. For, in his speech in defense of Murena (which was delivered in the latter part of November), he says¹

Di faxint, ut meus collega, vir fortissimus, hoc Catilinae nefarium latrocinium armatus opprimat, ego togatus vobis bonisque omnibus adiutoribus hoc, quod conceptum res publica periculum parturit, consilio discutiam et comprimam.

This can only mean that Antonius had already taken command against Catiline, and therefore corroborates the inference naturally drawn from Sallust 36 above. That the action of the senate took place much earlier than December 2 is indicated in another way by Sallust in chap. 56. He there states that after Antonius came within striking distance of Catiline with his army, the latter kept moving about, avoiding an engagement, waiting for the conspirators in the city to take some action.

With this point established, the letter becomes a most damaging piece of evidence; *cura ut vir sis, et cogita quem in locum sis progressus* clearly means, "You are now an outlaw, with nothing to lose and everything to gain: carry through the programme like a man," and *cura ut omnium tibi auxilia adiungas, etiam infimorum* is just as clearly a call to involve Italy in the horrors of a servile war, if necessary (for what other help could runaway slaves give?)—a plan so unpopular and un-Roman that Catiline himself² felt it worth while to be clear even of the suspicion of such a design. To admit the authorship of such a document was practically to plead guilty to the charge of treason—and this is precisely what Lentulus did. After such a confession I think it would be apt to go hard with the prisoner at the hands of any fair jury, ancient or modern, especially as Lentulus' previous record was bad. It is true that he had twice escaped through the meshes of the law,³ but the censors had atoned for the miscarriage of justice by expelling him from the senate.⁴

Before entering upon a consideration of the other evidence presented at the trial, it is necessary to say a word regarding the fidelity with which Cicero has transmitted this evidence to us. Mr. Radin

¹ 39. 84.

³ Cic. *Ad Att.* i. 16. 9.

² Sallust, 56 *fin.*

⁴ Dio Cassius xxxvii. 30; Plutarch *Cicero* 17.

does not hesitate to say of certain statements made by Cicero in the third and fourth orations against Catiline:

These are only several examples among many in which Cicero, by adroit manipulation of expressions or by actual falsehood, brings about the general impression that the five men were actually *manifesti* and *confessi*, neither of which is the case.

This sweeping charge against Cicero's veracity, altogether unsubstantiated by any clear evidence, is, to say the least, surprising in a paper that claims to be a plea for fair play and sane judgment. It is true that in many of his legal speeches Cicero does not hesitate to twist the truth a little to make his point; indeed, he says in cold blood that such a procedure is perfectly allowable.¹ But in the matter of the trial before the senate on December 3 he had by his own action made all misrepresentation impossible. For, as he himself tells us,² in order to forestall any such charge as Mr. Radin here brings against him, he appointed certain senators on that day, *qui omnia indicum dicta, interrogata, responsa perscriberent*. Of their qualifications he says, *non solum summa virtute et fide. . . . sed etiam quos sciebam memoria, scientia, celeritate scribendi facillime quae dicerentur persequi posse*. This official report, Cicero goes on to say, he ordered copied at once while the recollection of the senate was fresh (cf. § 41), and scattered copies far and wide not only through all Italy but also in the provinces as well. We need not here raise the question as to the exact method of recording implied by *celeritate scribendi* (§ 42). It is enough to know that the record was minute and specific. This is shown clearly earlier in the same speech.³ There the accuser has claimed that Sulla was named by the Allobroges as a conspirator. Cicero is willing to admit that Sulla's name was mentioned, but adds, *Sed lege indicium et vide, quem ad modum nominatus sit*. Note now how explicit the record of the evidence was. The Gauls testified that Cassius told them that Autronius (a former associate of Sulla) was in the conspiracy; that they then asked whether Sulla too was in the plot; and that Cassius answered that he did not know certainly. This little extract proves conclusively that the official record was minute and specific. If the testimony regarding the less promi-

¹ *Pro Cluent.* 50. 139; *De orat.* ii. 59. 241.

² *Pro Sulla* 14. 40 ff.

³ *Pro Sulla* 13. 36 ff.

nent Sulla was taken down with such care, surely that relating to the men actually under arrest received no less careful attention. Consequently, when Cicero prepared for publication the speeches against Catiline two or three years later, he had no choice but to make them exactly truthful, so far as the evidence submitted on December 3 was concerned. For otherwise the fraud would have been at once detected through comparison with the official copies of the evidence which had been scattered with such lavish hand. In view of this check upon Cicero, the statements published by him in the third and fourth speeches against Catiline may be received with greater (rather than with less) confidence than those made in some other orations of his.

To return now to the remaining evidence submitted at the trial. Concerning this Cicero speaks briefly and in somewhat general terms. Of the letters carried by the envoys to the senate of the Allobroges he says that the tenor of all was the same, and quotes the substance of Cethegus' communication in the following terms: *sese quae eorum legatis confirmasset facturum esse; orare ut item facerent quae sibi eorum legati recepissent*. In this document Mr. Radin finds nothing incriminating; he suggests that probably the ambassadors had come to Rome for the purpose of securing, through bribery, legislation favorable to themselves; and that these letters were merely pledges on the part of Lentulus and his friends that they would fulfil promises made verbally to the messengers. This supposition is wholly arbitrary. Moreover, Sallust (chap. 40) states that the Allobroges were already impoverished; they were therefore probably not in a position to pay large sums for legislation favorable to them. Again, if their dealings with Lentulus and the others were confined to the buying of political influence, what was the nature of the disclosure made to Sanga, and what motive was there for a disclosure? Surely, to advance such a rash hypothesis as this does not by any means "raise a reasonable doubt" as to the guilt of the prisoners. But to return to the letters. Despite the general nature of the report of the content of the document written by Cethegus, the wording indicates clearly that the ambassadors had made some promise on behalf of their people not authorized before they left home; for Cethegus feels it necessary to urge the Allobroges to carry out the compact into which the ambassadors had entered (*ut item illi facerent quae sibi eorum*

legati recepissent). In the investigation before the senate the nature of this compact was doubtless brought out more clearly than is now possible for us on the basis of the report of Cethegus' letter alone. For, in the first place, the use of indirect discourse shows that we have to do with a paraphrase merely—perhaps a much condensed paraphrase. In the second place, certain admissions were made by the prisoners (e. g., *In Cat.* iii. 5. 12, *ad extremum nihil ex eis quae Galli insimulabant negavit*). While, therefore, it might be fair to say that we do not know exactly how damaging these letters were in and for themselves, there is every reason for supposing that, alone (in their original form) or in connection with admissions on the part of the conspirators, they supplied important evidence against the defendants. Sallust certainly implies that the letters had to do with an invasion of Italy instigated by Lentulus and the others; for he says of the envoys (44) *postulant ius iurandum, quod signatum ad civis perferant; aliter haud facile eos ad tantum negotium impelli posse*. Cicero, too, may perhaps be giving a clue to the content of the documents as established at the trial when he exclaims,¹ *qui* (i. e., Lentulus and the others) *id egerunt ut gentem Allobrogum in vestigiis huius urbis atque in cinere deflagrati imperi conlocarent*—at any rate, these words do not exactly fit any part of the verbal testimony as recorded in the preceding speech.

This verbal testimony still remains to be considered. In the paper under discussion, nearly all the statements of Volturcius and the Gauls (as reported by Cicero) are brushed aside on the ground of intrinsic improbability—a method of procedure which Cicero's own phrase not inaptly describes; *Optare hoc quidem est, non docere*. Moreover, it is alleged that Volturcius was “an arrant poltroon” and the Allobroges “precious scamps”—a style of argument for which there is good Roman precedent, but which lacks somewhat in convincing power. Finally, it is said that Cicero himself had little confidence in the verbal testimony of the Gauls; though no evidence is cited in support of this assertion. As a matter of fact the envoys are described by him as *maximarum rerum verissimi indices*.²

¹ *In Cat.* iv. 6. 12.

² *Pro Sulla* 5. 17; cf. *De div.* i. 12. 21. The fact that elsewhere Cicero may have spoken contemptuously of Gallic witnesses who appeared *against* a client of his

It cannot, therefore, be said that Mr. Radin has made much headway in his attempt to show that the conspirators were condemned on wholly inadequate evidence. Indeed, such a thesis is really incapable of successful demonstration. For we can never hope to know the evidence in its entirety as presented on December 3. Yet even the fragments which we are able to exhume and piece together seem to leave the prisoners no loophole for escape. In fact none even of their friends seems to have seriously advanced the claim that they were innocent—the guilt was apparently too patent for that. It was rather against the somewhat irregular methods of the trial that the storm of protest was directed. The strict letter of the law perhaps demanded a transfer of the cases to a court where intimidation and bribery might easily have secured a verdict of not guilty.¹ And the fact that such transfer was denied gave some color to the ravings of those who fanned the flames of party hatred by calling Cato *carnificem civium*, *indemnatorum necis principem*, *crudelitatis auctorem*² and applying to Cicero the odious epithets of *tyrannus* and *rex*.³

(e. g., *Pro Font.* 7. 16) is a circumstance not at all inconsistent with a firm belief on his part in the evidence submitted by the ambassadors in this particular instance—as all must readily agree who are familiar with Cicero's habit of resorting to abuse to break the force of adverse testimony.

¹ What might have been expected at "a trial by their peers" is indicated by what happened, for example, at Autronius' trial for bribery (*Pro Sulla* 5. 15)—*ambitus iudicium tollere ac disturbare primum conflatu voluit gladiatorum ac fugitivorum tumultu, deinde, id quod vidimus omnes, lapidatione atque concursu*. Cf., too, the bribery at the trial of Clodius (*Ad Att.* i. 16. 5), and the disgraceful disorder when Milo was tried the first time (*Ad Quint. fr.* ii. 3. 2).

² *De dom.* 9. 21.

³ *In Vat.* 9. 23; *Ad Att.* i. 16. 10.